



Our members are devoted to freeing the innocent

1 West Old State Capitol Plaza, Ste. 818

Springfield, IL 62701

www.investigatinginnocence.org

April 8, 2019

Kwame Raoul
Illinois Attorney General
500 South Second Street
Springfield, Illinois 62704

Re: Proposal for a state-wide conviction integrity unit

Dear Attorney General,

I am seeking your support for legislation that will help provide a fairer system of justice for innocent men and women who have been wrongfully convicted and who remain in prison today.

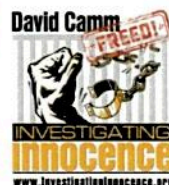
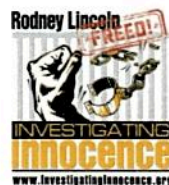
Conviction integrity units have been established in places like Dallas County, Texas, by elected prosecutors, and is becoming a growing trend in larger cities like New York City, Baltimore and now Chicago.

However, in smaller counties, like Sangamon County, the cost of creating conviction integrity units, along with the low volume of such claims, make it impractical for State's Attorneys to establish truly independent reviews of actual innocence claims. The remedy to this, I am advocating for the establishment of a state-wide conviction integrity unit within the Illinois Attorney General's Office.

I was seated next to Randy Steidl in the senate gallery in January 2011, when you had him stand and you declared it was because of cases like Randy Steidl that we needed to abolish the death penalty in Illinois. But Randy may have been home sooner, along with scores of others like him, had there been an independent conviction integrity unit examining the merits of actual innocence claims.

I have drafted a proposal that I am submitting for your review and welcome your input to craft a bill that will win majority support in the House and Senate that can be sent on to the Governor to become enacted into law.

As a first step, as a pilot program, I am calling on you, as Illinois Attorney General, to conduct an independent review and investigation of Thomas McMillen's claim of actual innocence that is presently pending before the Illinois Prisoner Review Board. I am enclosing a copy of Mr. McMillen's petition, and request the resources of your office to seek justice in this case.



During the course of my investigation, I discovered potential Brady violations that involve undisclosed benefits and favors that were given to one of the five jail house, Dexter Huddleston, who testified at the trial of Thomas McMillen. Enclosed is a summary that includes Huddleston's disclosure that he was allowed sexual contact with his fiancé at the courthouse as part of the undisclosed benefits he was given by prosecutors.

Last fall, Illinois passed the nation's strongest jailhouse informant bill into law. According the national Innocence Project, "Jailhouse informants are a leading cause of wrongful convictions nationally, playing a role in 16 percent of DNA-based exonerations of innocent Americans." In Illinois, 17 people were wrongfully convicted based on unreliable jailhouse informant testimony.

I am asking that your office prepare an independent evaluation of this case for Governor Pritzker's consideration as he decides whether to grant clemency.

Mr. McMillen, along with co-defendant Gary Edgington, are serving life sentences for first – degree murder convictions that originated out of Sangamon County. They faced the death penalty at trial, but the jury had residual doubt and failed to impose a death sentence. However, had they received a death sentence, like Randy Steidl did, both McMillen and Edgington would have had post-conviction resources that would have allowed them to investigate their claims innocence much sooner.

McMillen and Edgington's convictions hinged on the testimony of a man named Donald Johnston, who was originally facing the death penalty for the murder of Melissa Koontz after he falsely confessed to her murder. Johnston had an IQ of 54, and had the court known this at the time of trial, he may have been declared incompetent to testify. His statements and story changed by the hour, and over the course of several days of interrogation, rife with inconsistencies, and with a description of events that defy logic or plausibility. (See attached Summary of Donald Johnston's Pre-Trial Statements).

Key witnesses were never called by defense counsel for either McMillen or Edgington. One witness who we interviewed described seeing Melissa Koontz's vehicle slow to a stop at the spot where the killer abandoned her car. This witness, Ann Bramblet n/k/a Manning, if her statement had been known to defense counsel, that testimony would have persuaded a jury that Donald Johnston's trial testimony claiming that he, McMillen, and Edgington stood in the middle of a busy country road and flagged down Melissa Koontz's car, was a lie.

In the interest of justice, I am asking your office to conduct an independent review and investigation and to report those findings to Governor Pritzker.

Sincerely,

A handwritten signature in black ink, appearing to be "Bill Clutter", with a stylized, flowing script.

Bill Clutter

Conviction Integrity Unit

The Illinois Attorney General shall have the authority to establish a state-wide Conviction Integrity Unit consisting of a full-time staff of lawyers and investigators to review and investigate the merits of a claim of actual innocence made by an inmate of the Illinois Department of Corrections that is filed pursuant to the Illinois Post-Conviction Hearing Act 725 ILCS 5/122-1 in all counties other than Cook.

- 1) Once a prima facie finding is made by the Conviction Integrity Unit that a claim has merit to warrant further review, the Attorney General shall enter its appearance on behalf of the People of the State of Illinois in further post-conviction proceedings;
- 2) The Conviction Integrity Unit shall be given notice of any post-conviction motions filed on behalf of any inmate who is requesting post-conviction forensic testing pursuant to 725 ILCS 5/116-3 and shall have authority to enter agreed orders with the circuit courts to order such testing that may help establish evidence of actual innocence;
- 3) The Conviction Integrity Unit of the Illinois Attorney General shall seek justice in such cases where the weight of new evidence undermines confidence in the original criminal conviction.